

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and)	WT Docket No. 06-150
777-792 MHz Bands)	
)	
Implementing a Nationwide, Broadband,)	PS Docket No. 06-229
Interoperable Public Safety Network in the 700)	
MHz Band)	
)	
Amendment of Part 90 of the Commission's)	WP Docket No. 07-100
Rules)	

COMMENTS OF THE STATE OF NEW MEXICO

The State of New Mexico provides these comments in response to the Commission's Fourth Further Notice of Proposed Rulemaking in the above-captioned proceeding ("4th FNPRM")¹. In the 4th FNPRM, the Commission seeks comment on an appropriate technical framework to facilitate the deployment and operation of a nationwide, interoperable public safety wireless broadband network.² New Mexico is an early builder of its portion of the national network and has received a Broadband Technologies Opportunity Program (BTOP) grant award to help buildout the network. Accordingly, the rules and policies adopted in this proceeding are of great importance to the State of New Mexico. New Mexico appreciates the Commission's continuing efforts in this matter that is critical to the security and protection of the nation.

¹ Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, Amendment of Part 90 of the Commission's Rules, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, 26 FCC Rcd 733 (2011) ("4th FNPRM").

² *Id.*

I. The Commission Should Proceed Slowly and Cautiously.

The majority of commenters agree that the Commission may be moving too quickly to adopt highly technical and detailed rules for a network that is still in the conceptual phase. The early deployments facilitated by the Commission's *Waiver Order* will allow the public safety community to develop a wealth of experience-based knowledge that will facilitate the development of rules.³ As of this moment, these "test bed" systems are not yet up and running, there is little day-to-day operational experience with public safety broadband deployments, hardware and applications are still in the development phase, and governance, interoperability and regional sharing models are still being explored. The Commission should take only the most critical and minimal steps at this time that may be necessary to eliminate barriers to allowing the test bed systems to move forward in a way that will allow flexible and pragmatic solutions to be explored.

II. The Commission and Early Builders Should Work Within the Existing Governance Structure Until a Viable Alternative is Set Up

As recognized in the comments, there are ongoing discussions about establishing a new nationwide network governing entity (NNGE) that will serve as the governance entity for running the public safety broadband network.⁴ The creation of such a new national entity will likely require statutory amendment, and accordingly it may be months or even years away. In the meantime, there already exists a governing structure. The Public Safety Spectrum Trust (PSST) holds the national public safety broadband license and functions as the Public Safety Broadband Licensee ("PSBL"). Pursuant to the

³ Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, *Order*, PS Docket No. 06-229 (Released May 12, 2010) ("*Waiver Order*").

⁴ *See*, Comments of Public Safety Spectrum Trust, pg. 3; Comments of Certain Members of the PSST Operator Advisory Committee, pg. 3.

Waiver Order, the PSST/PSBL has entered into spectrum leases with the waiver recipients, pursuant to which the early builder waiver recipient jurisdictions are authorized to move forward with building portions of the national network. The PSST/PSBL, together with the authorized waiver recipients, are the existing governing structure for the network. The Commission should work closely with these parties, providing maximum flexibility and deference, to facilitate successful network deployment.

III. The Commission Should Task Manufacturers and Commercial Operators to Enable Cost-Effective Equipment Solutions for Public Safety

Much of the 4th FNPRM focuses on establishing technical requirements for equipment that will be deployed on the public safety network. The public safety market, however, is a very small portion of the overall market for LTE equipment. One of the concerns driving the public safety community to adopt LTE early was the hope that equipment costs could be lowered thereby. Historically, public safety users have been required to pay more for subscriber devices than commercial customers. This is due to the economics of equipment manufacturing: per unit costs are lowered as the number of units made increases. Through the adoption of what is expected to be widely available standardized commercial equipment for the public safety broadband network, the public safety community hoped to benefit from the more cost effective pricing models that generally exist for equipment in the high volume commercial markets.

The hope of more efficiently priced equipment may well evaporate if the Commission imposes unique equipment requirements on public safety. Due to the much smaller market size, the public safety community does not have the same clout that the large commercial operators have to impose requirements on manufacturers. Accordingly,

it can be expected that public safety users will have to pay a premium cost for special needs equipment resulting from Commission-imposed requirements that may be unique to public safety. For this reason, to the extent the Commission may deem it necessary to impose special requirements on public safety equipment, the Commission should either impose requirements directly on the manufacturers or establish mechanisms to enlist the market clout of the large commercial operators in supporting such requirements for public safety.

The Commission has authority over manufacturers through the equipment approval process, and the Commission also has direct authority over commercial operators. The Commission may want to issue a Notice of Inquiry to explore what it should do in this regard, with a view to ensuring that public safety's equipment needs can be satisfied the most cost efficient manner possible.

IV. The Commission Should Allow Maximum Flexibility for Local Builders/Operators to Determine Uses and Users on the Network.

As shown by New Mexico in its initial comments, there is no one-size-fits-all solution to defining uses and users on the network. Nor is it necessary from an interoperability standpoint to apply a one-size-fits-all requirement in resolving the issue of uses and users. Most of the commenters agree with New Mexico's position on this issue: i.e., that there should be maximum local flexibility allowed on a jurisdiction-by-jurisdiction basis. Accordingly, the Commission should avoid imposing prohibitions on fixed uses of the network, and similarly the Commission should not proscribe sharing with utilities and other critical infrastructure users where such an option might be desired by a jurisdictional governmental authority.

CONCLUSION

In view of the foregoing, the State of New Mexico requests that the Commission adopt rules and policies consistent with the views expressed herein.

Respectfully Submitted,

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